

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

<p>Robert A. Pastor; Scott M. Van Horn; Regina M. Florence; and William E. Florence III, on behalf of themselves and all others similarly situated,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>Bank of America, N.A.</p> <p style="text-align: center;">Defendant.</p>	<p>Case No: 15-cv-03831-VC</p> <p>CLASS ACTION</p> <p>[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE</p> <p>[Hon. Vince Chhabria]</p>
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On July 26, 2016, after extensive arms-length negotiations, and private mediation conducted before Honorable Edward Infante (ret.), Plaintiff and Defendant (herein jointly referred to as the "Parties") entered in to a Class Action Settlement Agreement (hereinafter referred to as the "Agreement"), which is subject to review under Fed. R. Civ. P. 23, for monetary damages as set forth in the Agreement.

1 On April 13, 2017, the parties jointly filed a Motion for Preliminary
2 Approval of Class Action Settlement and Certification of Settlement Class
3 (“Preliminary Approval Motion”) [Dkt No. 46].¹

4 On July 7, 2017, upon consideration of the Agreement, Preliminary Approval
5 Motion, and the record, the Court entered an Order of Preliminary Approval of
6 Class Action Settlement (*see* Order granting Motion for Preliminary Approval of
7 Class action Settlement and Certification of Settlement Class (“Preliminary
8 Approval Order”) [Dkt. No. 55]). Pursuant to the Preliminary Approval Order, the
9 Court, among other things, (i) preliminarily approved the proposed settlement; (ii)
10 approved the Notice and instructed its mailing; and (iii) set the date and time of the
11 Final Approval Hearing.

12 After BANA complied with the Preliminary Approval Order and provided
13 notice of the Settlement to approximately 526,627 Group 1 Original Settlement
14 Class Members, in December 2017, BANA discovered that, due to an inadvertent
15 error in retrieving names and addresses of class members from BANA’s electronic
16 consumer records, the Class Settlement Notice was not mailed to all borrowers on
17 accounts with multiple borrowers. Due to a retrieval error, only the primary
18 borrower listed on the account was included in the mailing list of Settlement Class
19 Members created by BANA. As a result, additional or secondary borrowers’ names
20 were not included in the mailing list and therefore were not separately named on the
21 Class Settlement Notice KCC mailed to their properties. BANA identified
22 approximately 61,410 secondary or additional borrowers (the “Affected Settlement
23 Class Members”) in Group 2.

24 On February 2, 2018, the parties filed a Joint Motion to Request
25 Supplemental Preliminary Approval of Addendum to Revised Class Action
26 Settlement Agreement (the “Supplemental Preliminary Approval Motion”). Dkt.

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28 ¹ Supplemental briefing was filed on June 07, 2017 (Dkt. No. 52) and on June 23,
2017 (Dkt. No. 54).

1 No. 68. The motion sought the Court's approval of the Supplemental Class
2 Settlement Notice.

3 On March 16, 2018 the Court granted the Supplemental Preliminary
4 Approval Motion. Dkt. No. 79.

5 On July 20, 2018, the Parties filed their Motion for Final Approval of Class
6 Action Settlement Agreement (hereinafter referred to as the "Final Approval
7 Motion"). Pursuant to their Final Approval Motion, the Parties request final
8 approval of the proposed Class Action Settlement.

9 The Court has read and considered the Agreement, Final Approval Motion,
10 and the record. All capitalized terms used herein have the meanings defined herein
11 and/or in the Agreement.

12 NOW, THEREFORE IT IS HEREBY ORDERED:

- 13 1. JURISDICTION: The Court has jurisdiction over the subject matter of the
14 Lawsuit and over all settling parties hereto.
- 15 2. NOTICE AND CLAIMS PROCESS: Pursuant to the Court's orders, the
16 Claims Administrator has complied with the approved notice process as
17 confirmed in its declaration filed with the Court. The form and method for
18 notifying the Settlement Class members of the settlement and its terms and
19 conditions was in conformity with this Court's Preliminary Approval Order
20 and Supplemental Preliminary Order and satisfied the requirements of Fed. R.
21 Civ. P. 23(c)(2)(B) and due process, and constituted the best notice
22 practicable under the circumstances. The Court finds that the notice process
23 was clearly designed to advise the Settlement Class members of their rights.
24 Further, the Court finds that the claim process set forth in the Agreement was
25 followed and that the process was the best practicable procedure under the
26 circumstances.
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1 3. FINAL CLASS CERTIFICATION: The Court again finds that the Lawsuit
2 satisfies the applicable prerequisites for class action treatment under Fed. R.
3 Civ. P. 23, namely:

4 A. The Settlement Class members are so numerous that joinder of all
5 of them in the Lawsuit would be impracticable;

6 B. There are questions of law and fact common to the Settlement
7 Class members, which predominate over any individual questions;

8 C. The claims of Plaintiff are typical of the claims of the Settlement
9 Class members;

10 D. The Plaintiff and Class Counsel have fairly and adequately
11 represented and protected the interests of all the Settlement Class members; and

12 E. Class treatment of these claims will be efficient and manageable,
13 thereby achieving an appreciable measure of judicial economy, and a class action is
14 superior to other available methods for a fair and efficient adjudication of this
15 controversy.
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20 4. The Court finds that the settlement of the Lawsuit, on the terms and
21 conditions set forth in the Agreement, is in all respects fundamentally fair,
22 reasonable, adequate, and in the best interests of the Settlement Class
23 members, especially in light of the benefits to the Settlement Class members,
24 the strength of the Plaintiffs' case, the complexity, expense and probable
25 duration of further litigation, the risk and delay inherent in possible appeals,
26 and the risk of collecting any judgment obtained on behalf of the class.
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5. SETTLEMENT TERMS: The Agreement, which has been filed with the Court and shall be deemed incorporated herein, and the proposed settlement are finally approved and shall be consummated in accordance with the terms and provisions thereof, except as amended by any order issued by this Court. The material terms of the Agreement include, but are not limited to, the following:

A. Defendant shall pay each of the 114,512 claimants that made a timely and valid claim \$4.06;

B. Defendant shall pay to Class Counsel the sum of \$431,250 in attorneys' fees and \$19,023.42 for costs incurred in litigating this action.

6. EXCLUSIONS: A total of 33 exclusions were received. Those persons requesting exclusion are named on Exhibit A to this Order. The Court hereby excludes these individuals from the class and settlement.

7. OBJECTIONS: The Settlement Class members were given an opportunity to object to the settlement. No Settlement Class members filed objections.

8. This Order is binding on all Settlement Class members, except those individuals named on Exhibit A, who validly and timely excluded themselves from the Class.

9. RELEASE OF CLAIMS AND DISMISSAL OF LAWSUIT: The Class Representative, Settlement Class members, and their successors and assigns are permanently barred and enjoined from instituting or prosecuting, either individually or as a class, or in any other capacity, any of the Released Claims against any of the Released Parties, as set forth in the Agreement. Pursuant to the release contained in the Agreement, the Released Claims are compromised, discharged, and dismissed with prejudice by virtue of these proceedings and this Order.

1 10. The Lawsuit is hereby dismissed with prejudice in all respects.

2 11. This Order is not, and shall not be construed as, an admission by Defendant of
3 any liability or wrongdoing in this or in any other proceeding.

4 12. Without affecting the finality of this Final Judgment and Order of Dismissal
5 With Prejudice, the Court hereby retains continuing and exclusive jurisdiction
6 over the Parties and all matters relating to the Lawsuit and/or Agreement,
7 including the administration, interpretation, construction, effectuation,
8 enforcement, and consummation of the settlement and this order.

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10 IT IS SO ORDERED.

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12 Dated: _____

THE HONORABLE VINCE CHHABRIA
UNITED STATES DISTRICT COURT JUDGE